

Message Text

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PAGE 01 GENEVA 09192 160848Z

17

ACTION EB-07

INFO OCT-01 IO-10 ISO-00 AF-06 ARA-06 EA-07 EUR-12 NEA-10

AGR-05 CEA-01 CIAE-00 COME-00 DODE-00 FRB-03 H-02

INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 STR-04 TAR-01 TRSE-00 USIA-06 PRS-01

SP-02 OMB-01 FEA-01 OIC-02 /134 W

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PASS STR AND AGRICULTURE

FOLLOWING SENT ACTION OTTAWA, DEC 10, REPEATED FOR YOUR ACTION:

QUOTE

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E.O. 11652: N/A

TAGS: GATT, ETRD, CA

SUBJ: GATT WP ON CANADIAN EGG RESTRICTIONS

REF: STATE 286627

BEGIN SUMMARY. WP COMPLETED WORK, DECIDED/ WITH
U.S. RESERVING) THAT CEMA CONSISTENT
WITH ART XI, SUGGESTED CANADA MUST ENLARGE IMPORT QUOTA,
AND WAS INCONCLUSIVE ON NULLIFICATION IMPAIRMENT ISSUE.
U.S. DEL. URGES EARLY BILATERAL DISCUSSION IN BELIEF
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PAGE 02 GENEVA 09192 160848Z

CANADIANS SERIOUS IN INCLINATION PRODUCE INCREASE

IN QUOTA. END SUMMARY.

1. WP ON EGGS MET DECEMBER 8 AND 9. FINAL REPORT TO CP'S BEING PREPARED FOR THURSDAY, DECEMBER 11 A.M. MEETING OF W.P. CONCLUSIONS TO BE INCLUDED IN REPORT AND ASSESSMENT OF WP DISCUSSIONS FOLLOWS. BRAZIL AND INDIA NOT PRESENT, WILL NOT PARTICIPATE IN REPORT SESSION.

2. ALTHOUGH U.S. DEL MADE PERSISTENT EFFORTS TO DEMONSTRATE INEFFECTIVENESS OF SYSTEM, OTHER WP MEMBERS CONCLUDED THAT CEMA SYSTEM IS INCONFORMITY WITH ARTICLE XI (C) (I). AUSTRALIA STATED THAT DESPITE OBVIOUS PROBLEMS IN CANADIAN SYSTEM, AUSTRALIA BELIEVES THE SYSTEM DOES CONSTITUTE PRODUCTION CONTROL SYSTEM CONFORMING TO THE REQUIREMENTS OF ARTICLE XI. JAPAN STATED THAT THEY COULD NOT FIND FACTORS WHICH SHOW THE SYSTEM DOES NOT COMPLY WITH ARTICLE XI SO CONCLUDED THAT IT DOES COMPLY. EC ALSO AGREED THAT CEMA SYSTEM IN CONFORMITY WITH ARTICLE XI.

3. U.S. DELEGATE ASSESSMENT IS THAT AMBIGUITY OF ARTICLE XI LEFT COUNTRIES WITH NO CHOICE BUT TO ACCEPT CEMA SYSTEM AS PURPORTED BY THE CANADIANS TO BE EFFECTIVE WITHIN THE DEFINITION OF ARTICLE XI AND SPECIFICALLY ANALYTICAL INDEX DEFINITION (PRODUCTION MUST BE EFFECTIVELY KEPT BELOW WHAT IT WOULD HAVE BEEN IN THE ABSENCE OF RESTRICTIONS) DESPITE OBVIOUS DOUBTS BY W.P. MEMBERS AS TO VIABILITY OF MANY ELEMENTS OF CEMA SYSTEM. WP MEMBERS ACTED ON BASIS OF INSTRUCTIONS FROM THEIR CAPITALS ON THIS QUESTION. U.S. DEL RESERVED FROM CONCLUSION OF GROUP ON QUESTION 1, STATING THAT US STILL BELIEVES CEMA PROGRAM NOT EFFECTIVELY CONTROLLING PRODUCTION IN CONFORMITY WITH ARTICLE XI.

4. ON QUESTION 2 (BASIS FOR DETERMINING IMPORT QUOTA), U.S. DEL GAVE EXAMPLES OF REPRESENTATIVE PERIODS WHICH WOULD BE MORE APPROPRIATE THAN DOWN CYCLE CHOSEN BY CANADA, INCLUDING 67-71 PERIOD AND LONGER PERIODS WHICH TAKE TRADE FLUCTUATIONS INTO ACCOUNT. WP MEMBERS EXPRESSED OPINIONS THAT TRADE WAS SUCH THAT FLUCTUATIONS LIMITED OFFICIAL USE

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PAGE 03 GENEVA 09192 160848Z

AND SPECIAL FACTORS WERE IMPORTANT ELEMENTS IN DETERMINING PROPER BASE PERIOD UNDER ARTICLE XI AND THAT PROPER RATIO BETWEEN IMPORTS AND PRODUCTION SHOULD BE APPLIED IN DETERMINING THE QUOTA. BECAUSE WP MEMBERS FELT THIS INFORMATION NOT AVAILABLE, NO DECISION AS TO CONFORMITY WITH THE LAST PARAGRAPH OF ARTICLE XI (2) (C) WAS REACHED.

5. WP, HOWEVER, AGREED THAT THE QUOTA SHOULD REPRESENT A BALANCE, WITH BOTH UP AND DOWN TRADE YEARS CONSIDERED. CHAIRMAN SUGGESTED ONE POSSIBLE PERIOD JUNE 1, 1967 - MAY 31, 1973 (APPROXIMATELY 83,000 CASES SHELL EGGS AVERAGE). U.S. DEL SUGGESTED 1966 BE INCLUDED TO PROVIDE AN EQUAL NUMBER OF UP AND DOWN YEARS. EC SAID ALTHOUGH THEY WERE NOT WILLING TO SAY CANADIAN QUOTA NOT IN CONFORMITY WITH ARTICLE XI, THEY FELT A HIGHER QUOTA WAS MORE APPROPRIATE AND GAVE RATIONALE FOR USING LONGER BASE PERIOD WHICH INCLUDED AN EQUAL NUMBER OF UP AND DOWN YEARS. JAPAN ALSO PLACED GREAT EMPHASIS ON CONCEPT OF BALANCE. AUSTRALIA SUPPORTED THE CONCEPT OF A BALANCED QUOTA AND SUGGESTED THAT 1966-73 INCLUDED 4 GOOD YEARS AND 4 BAD YEARS AS REGARDS IMPORTS, AVERAGING OUT TO APPROXIMATELY 100,000 CASES SHELL EGGS.

6. WP AGREED THAT REPORT WOULD REFLECT VIEW OF WP MEMBERS THAT US-CANADA SHOULD DISCUSS QUOTA WITH ABOVE SUGGESTIONS AS GUIDES. CANADA DEL STATED WILLINGNESS TO TAKE RECOMMENDATIONS OF WP BACK TO CANADIAN GOVERNMENT FOR CONSIDERATION.

7. ON QUESTION 3 (NULLIFICATION OR IMPAIRMENT), THE WP DID NOT REACH A CONCLUSION ON THE ISSUE AS REGARDS THIS PARTICULAR CASE.

8. CANADA DEL RAISED INTERPRETIVE ISSUE BY PRO-POSING THAT ARTICLE XI IS SELF-BALANCING AND UNIQUE AND THEREFORE IS BEYOND THE REACH OF ARTICLE XXIII NULLIFICATION OR IMPAIRMENT. U.S. DEL STATED THAT A CLEAR NULLIFICATION OR IMPAIRMENT EXISTS WHEN A QR IS PLACED ON A BOUND ITEM. AUSTRALIAN DEL SUPPORTED US VIEW FULLY. JAPAN LIMITED OFFICIAL USE

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PAGE 04 GENEVA 09192 160848Z

DEL STATED HIS GOVERNMENT NOT WILLING TO MAKE STATEMENT ON THIS DIFFICULT QUESTION. EC SUPPORTED CANADA VIEW THAT THERE NO IMPAIRMENT. EC STATED THAT SO LONG AS NO COUNTRY INSISTED THAT ITS OWN INTERPRETATION BE INCLUDED IN THE REPORT, EC WOULD NOT PUSH FOR INCLUSION OF EC OR CANADA VIEW. US AND AUSTRALIAN DELS DECIDED THAT TO AVOID LANGUAGE THAT COULD LATER BE CITED AS POTENTIALLY LEGITIMATE INTERPRETATION OF ARTICLE XI AS REGARDS NULLIFICATION OR IMPAIRMENT, A NEUTRAL STATEMENT BY WP WOULD BE ACCEPTABLE. STATEMENT IN REPORT IS TO BE NEUTRAL AND IN NO WAY PRECEDENTAL EITHER AS TO AN INTERPRETATION OF ARTICLE XI OR AS TO THE ABILITY TO DECIDE FUTURE CASES WHICH MIGHT RAISE THE SAME QUESTION. US THEREFORE NOT PREJUDICED IN SO FAR AS POSSIBLE XXIII ACTION ON EGGS.

9. IN PRIVATE DISCUSSIONS WITH US DELEGATION, GATES CANADIAN DEL AND OTTAWA AG REP REQUESTED EARLY MEETING WITH DEP STR YEUTTER ON ISSUE OF POSSIBLE CHANGE IN CANADIAN QUOTA. CANADIAN INTERNAL PRODUCTION QUOTAS WILL BE RESET BY JAN 1 AND IMPORT QUOTA ALSO WILL BE CHANGED AS PART OF TOTAL PACKAGE. IT WAS SUGGESTED THAT MORE FLEXIBILITY ON PART OF CANADA POSSIBLE IF AGREEMENT COULD BE REACHED BEFORE JAN 1.

10. COMMENT: ALL MEMBERS US DELEGATION BELIEVE WP RESULTS NOW PUT HEAT ON CANADIANS TO SETTLE BILATERALLY WITH U.S. AND OFFER A DOUBLING OF CURRENT SHELL EGG QUOTA OF 54,000 CASES. AT THE SAME TIME, WP RESULTS CLEARLY DO NOT INTIMIDATE CANADIANS TO PRODUCE HIGHER MULTIPLES OF CURRENT QUOTA; CANADIANS WELL AWARE THAT GATT WOULD NOT SUPPORT U.S. PRESSURE FOR QUOTA ON ORDER OR 3 OR 4 TIMES CURRENT LEVEL.

11. COFFIELD OF STR WILL HAND-CARRY DRAFT WP REPORT. IF REPORT SESSION RESULTS SHOULD VARY SIGNIFICANTLY FROM ABOVE, WE WOULD SO REPORT. DALE

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Message Attributes

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